

# SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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**FIFTY-FIRST DAY**

(Tuesday, May 5, 2009)

The Senate met at 11:10 a.m. pursuant to adjournment and was called to order by President Pro Tempore Duncan.

The roll was called and the following Senators were present: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Averitt, Van de Putte.

The President Pro Tempore announced that a quorum of the Senate was present.

The Reverend John Valenzuela, Faith and 5 Stones Bible Church, San Antonio, offered the invocation as follows:

Shower blessings from heaven upon them. Bless their families. Bless them for the sacrifice they make to serve, lead, and guide this great State of Texas. As You bless them, father God, You bless us. Enlarge their influence. Expand their opportunities, Lord, as You enlarge their influence, You enlarge our opportunities. Place them in an environment where they can in turn bless us. Keep Your hand upon them. Lord, lead them and guide them. Give them clarity, wisdom, and courage to go against the current of this world. Give them the valor to face the giants of this world. Help them to have the spirit of David as he ran to the giant. These are Your champions. Protect them from evil. Place Your hedge of protection around them and their families and our future. Lord, as You protect them, You protect us. Keep them from the temptation of personal glory and help them to serve Your people. Honor them with godly characteristics. Help them to focus on Your scoreboard and not the scoreboard of this world. Help them to be leaders of hospitality, moral purity, servants of wisdom and peace. Sharpen them through Your word so they can sharpen Texas. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

## LEAVES OF ABSENCE

On motion of Senator Whitmire, Senator Averitt was granted leave of absence for today on account of important business.

On motion of Senator Whitmire, Senator Van de Putte was granted leave of absence for today on account of an illness in the family.

**CO-AUTHORS OF SENATE BILL 679**

On motion of Senator Lucio, Senators West and Zaffirini will be shown as Co-authors of **SB 679**.

**CO-AUTHOR OF SENATE BILL 1060**

On motion of Senator Ellis, Senator Zaffirini will be shown as Co-author of **SB 1060**.

**CO-AUTHOR OF SENATE BILL 1088**

On motion of Senator Shapleigh, Senator Hinojosa will be shown as Co-author of **SB 1088**.

**CO-AUTHOR OF SENATE BILL 1176**

On motion of Senator Patrick, Senator Whitmire will be shown as Co-author of **SB 1176**.

**CO-AUTHOR OF SENATE BILL 1497**

On motion of Senator Williams, Senator Nichols will be shown as Co-author of **SB 1497**.

**CO-AUTHOR OF SENATE BILL 1646**

On motion of Senator Van de Putte, Senator Zaffirini will be shown as Co-author of **SB 1646**.

**CO-AUTHOR OF SENATE BILL 2407**

On motion of Senator Zaffirini, Senator Ogden will be shown as Co-author of **SB 2407**.

**CO-SPONSOR OF HOUSE BILL 2626**

On motion of Senator Zaffirini, Senator Uresti will be shown as Co-sponsor of **HB 2626**.

**CO-SPONSOR OF HOUSE BILL 3113**

On motion of Senator Lucio, Senator Harris will be shown as Co-sponsor of **HB 3113**.

**CO-SPONSOR OF HOUSE BILL 3456**

On motion of Senator Zaffirini, Senator Uresti will be shown as Co-sponsor of **HB 3456**.

**SENATE RESOLUTION 819**

Senator Ellis offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Right Honorable Elliot Morley, Member of Parliament, President of GLOBE International, Chair of GLOBE UK, and Special Representative of the Prime Minister of the United Kingdom; and

WHEREAS, Mr. Morley has a long and distinguished career in Parliament and a wealth of experience in dealing with policy issues relating to the environment; and

WHEREAS, Working through GLOBE International and GLOBE UK, he has brought together representatives from different political affiliations and opinions and created consensus on actions to take regarding climate change; and

WHEREAS, Mr. Morley, by invitation of the British Consulate-General Houston, has traveled to Austin May 4 through 5, 2009, for the purpose of engaging in discussions with state legislators in both the House and Senate, industry leaders, and nongovernmental organizations, with the intent of helping the state create business-friendly climate change legislation; and

WHEREAS, Mr. Morley has offered the experiences of the United Kingdom to help inform Texas officials as they decide how the state can remain competitive while moving forward to a leadership role in the coming low-carbon world; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend Mr. Morley for generously sharing information, ideas, and lessons learned with Texas legislative and business leaders and extend sincere gratitude for the friendship offered by Mr. Morley and the United Kingdom; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Mr. Morley as an expression of high regard from the Texas Senate.

**(Senator Carona in Chair)**

**SR 819** was again read.

The resolution was previously adopted on Monday, May 4, 2009.

### **GUESTS PRESENTED**

Senator Ellis, joined by Senators Seliger, Fraser, and Watson, was recognized and introduced to the Senate the Right Honorable Elliot Morley, Member of Parliament and Special Representative of the Prime Minister of the United Kingdom, accompanied by Consul General of the United Kingdom in Houston Paul Lynch and Vice Consul Mitch Jeffrey.

The Senate welcomed its guests.

### **PHYSICIAN OF THE DAY**

Senator Watson was recognized and presented Dr. Michelle Markley of Austin as the Physician of the Day.

The Senate welcomed Dr. Markley and thanked her for her participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

### **SENATE RESOLUTION 822**

Senator Harris offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Coppell High School Cowgirls soccer team, which recently won the University Interscholastic League Class 5A state championship title; and

WHEREAS, The Cowgirls claimed their first state championship by defeating The Woodlands High School Lady Highlanders by a score of 3-2 in a match that saw them equal the highest number of goals that the Highlanders had allowed all season; the Lady Highlanders had posted 24 shutouts and were ranked third in the nation by ESPN RISE; and

WHEREAS, This outstanding match featured great defense and goalkeeping, with Alyssa Diggs scoring the game-winning goal with an assist from Dominique Dinka; Laura Sadler was named the game's Most Valuable Player, and Alyssa Diggs, Spayne Avant and Chioma Ubogagu were named to the All-Tournament Team; and

WHEREAS, The Cowgirls had advanced to the state finals by defeating Ronald Reagan High School of San Antonio by a score of 1-0; the San Antonio Reagan Rattlers entered the game ranked first in the nation by ESPN RISE before falling to the Cowgirls, whose performance throughout the tournament upheld the standard they set for themselves when they made "Check Our Footwork" the team's theme; and

WHEREAS, Despite having lost eight of last year's starters to graduation, the Cowgirls were able to build a championship team this season; led by their three senior starters, they drew inspiration from the team's practice motto, "You Reap What You Sow," and with enthusiasm, dedication, and an exceptional work ethic, the Cowgirls beat all the odds and captured a championship title; and

WHEREAS, Under the superior leadership and expertise of District 6-5A Coach of the Year Chris Stricker, and with the talented support of assistant coaches Michelle McAlister, Justin Heller, and Tito Schwabe, the Cowgirls developed exceptional teamwork and discipline, and they finished the season ranked fourth in the nation by ESPN RISE; and

WHEREAS, These young athletes have demonstrated great talent and perseverance throughout the year, both on and off the field; Chioma Ubogagu was the District 6-5A Midfielder of the Year and was a finalist for Gatorade Player of the Year; senior Sydney Frazier was named to the All-State Academic Team, and junior Erin Barlow is currently ranked 10th in her class; and

WHEREAS, Coppell High School and the City of Coppell are proud of the Cowgirls for their hard work, their impressive skills, and their fine sportsmanship; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend the Coppell High School Cowgirls soccer team for their successful season and extend congratulations to them on winning the University Interscholastic League Class 5A state championship title; and, be it further

RESOLVED, That a copy of this Resolution be prepared for them as an expression of high regard from the Texas Senate.

HARRIS  
SHAPIRO

**SR 822** was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Harris was recognized and introduced to the Senate Sydney Frazier and Cara Manning, Senior Captains, Coppell High School Cowgirls soccer team, and Laura Sadler, Senior Captain, All-State team member and Most Valuable Player of the state tournament, accompanied by their coach, Chris Stricker, and his wife, Amanda.

The Senate welcomed its guests.

**SENATE RESOLUTION 520**

Senator Ellis offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the participants in the 2008-2009 Chronicle Classroom for their commitment to the principles of journalism; and

WHEREAS, Created in 2006 by *Houston Chronicle* editor and vice president Jeff Cohen, the Chronicle Classroom is a practical training and mentoring program for young journalists; and

WHEREAS, Each year, a group of Houston high school students is chosen to participate in the program, for which they report to the offices of the *Houston Chronicle* every day for a half day of instruction in the basics of journalism and mass communication; and

WHEREAS, The classes focus on the fundamentals of daily journalism while also introducing students to a range of news media careers and offering practical experiences; and

WHEREAS, Chronicle Classroom students get the opportunity to work on stories that will be published in the *Houston Chronicle*, a noteworthy achievement for student journalists, and they plan and publish a student newspaper, *Insight*; and

WHEREAS, A well-informed citizenry is vital to the functioning of democracy, and the news media play a critical role in ensuring that people have the information they need to make educated decisions; the Chronicle Classroom is truly deserving of recognition for its role in training the journalists of tomorrow; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend the Chronicle Classroom on its mission to further the training of young journalists and extend to the student participants best wishes for continued success in this important field; and, be it further

RESOLVED, That a copy of this Resolution be prepared for these students as an expression of esteem from the Texas Senate.

**SR 520** was again read.

The resolution was previously adopted on Wednesday, March 25, 2009.

**GUESTS PRESENTED**

Senator Ellis was recognized and introduced to the Senate participants in the 2008-2009 Chronicle Classroom.

The Senate welcomed its guests.

**MESSAGE FROM THE HOUSE****HOUSE CHAMBER**

Austin, Texas

May 5, 2009

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HB 882**, Relating to a residential tenant's right of restoration of utilities after certain unlawful conduct.

**HB 1007**, Relating to the expiration of a stored value card.

**HB 1020**, Relating to the use, exhibition, or possession of a firearm by public school students participating in certain school-sponsored programs and activities sponsored or supported by the Parks and Wildlife Department.

**HB 1054**, Relating to the enforcement of certain traffic laws; providing a penalty.

**HB 1362**, Relating to the pilot program for reporting of methicillin-resistant *Staphylococcus aureus* infections.

**HB 1630**, Relating to the eligibility of certain individuals for child health plan coverage or medical assistance on release from certain facilities or other settings.

**HB 2165**, Relating to the appraisal for ad valorem tax purposes of certain open-space land devoted principally to ecological research.

**HB 2191**, Relating to prohibiting contact between an employee of a facility that serves the elderly or disabled persons, whose criminal history has not been verified, and a patient or resident of the facility.

**HB 2230**, Relating to liability for interest if land appraised for ad valorem tax purposes as agricultural or open-space land is sold or diverted to a different use.

**HB 2386**, Relating to the sealing of juvenile records.

**HB 2435**, Relating to the location of an arbitration trial.

**HB 2500**, Relating to the governor's flag.

**HB 2531**, Relating to a reporting requirement regarding the Texas emerging technology fund.

**HB 2556**, Relating to the rights and duties of the parties to a motor vehicle retail installment contract or a conditional delivery agreement involving the sale or conditional delivery of a motor vehicle; providing an administrative penalty.

**HB 2735**, Relating to the continuation and functions of the Credit Union Department and the Credit Union Commission.

**HB 2952**, Relating to venue for the prosecution and punishment of certain offenses committed on the boundaries of two or more counties.

**HB 2972**, Relating to the definition of a controlling person with respect to the operation of certain assisted living facilities.

**HB 3006**, Relating to the authority of certain municipalities to impose term limits on the members of their governing bodies.

**HB 3228**, Relating to the offense of prohibited substances and items in correctional facilities.

**HB 3391**, Relating to the continuation and functions of the Parks and Wildlife Department; changing the elements of an offense.

**HB 3543**, Relating to the creation of a Don't Mess with Texas Water program to prevent illegal dumping that affects the surface waters of this state.

**HB 3689**, Relating to the functions and continuation of the Texas Youth Commission and the Texas Juvenile Probation Commission and to the functions of the Office of Independent Ombudsman for the Texas Youth Commission.

**HB 3751**, Relating to the conditions of bond for a defendant charged with committing certain offenses against a child and to the denial of bail pending trial with respect to certain defendants who violate those conditions.

**HB 3827**, Relating to the delivery of regulated substances into underground storage tanks; providing a penalty.

**HB 3838**, Relating to powers and duties of the Office of Public Utility Counsel to represent residential and small commercial consumers in certain water or sewer utility service matters before the Texas Commission on Environmental Quality.

**HB 3945**, Relating to a title insurance company affidavit as a release of lien.

**HB 4002**, Relating to the funding of the statewide wildfire protection plan at the Texas Forest Service.

**HB 4043**, Relating to notifications to certain purchasers of real property that may be located in an area subject to a certificate of convenience and necessity for water or sewer service.

**HB 4136**, Relating to sealing court records containing medical information for children who are victims of certain offenses.

**HB 4247**, Relating to the use of the proceeds of cash deposits filed with the Railroad Commission of Texas by certain persons under the jurisdiction of the commission and deposited in the oil-field cleanup fund.

**HB 4294**, Relating to textbooks, electronic textbooks, instructional material, and technological equipment in public schools.

**HJR 39**, Post-ratifying Amendment XXIV to the Constitution of the United States prohibiting the denial or abridgment of the right to vote for failure to pay any poll tax or other tax.

**SB 1442**, Relating to business entities and associations.  
(Amended)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### **SENATE RESOLUTION 446**

Senator Zaffirini, on behalf of Senator Van de Putte, offered the following resolution:

WHEREAS, The system of writing called Braille is the lifeline for thousands of Texans who are blind or visually impaired and for millions of other people around the world, and this year marks the 200th birthday of the blind French youth who invented this amazing system; and

WHEREAS, Braille has enabled visually impaired students to achieve their maximum independence and academic excellence; even those who lose their vision later in life find Braille to be extremely helpful in their daily lives; and

WHEREAS, Eighty percent of employed Americans who are blind or visually impaired, including lawyers, teachers, legislators, computer programmers, civil servants, and physicians, are proficient in the use of Braille; and

WHEREAS, The importance of Braille in the education, employability, and independence of Texans is tremendous, and the Braille Revival League of Texas, an affiliate of the American Council of The Blind of Texas, plays an invaluable role in promoting the teaching, use, and dissemination of Braille as a tool of literacy for blind and visually impaired children and adults throughout the state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby pay tribute to the genius of Louis Braille on the bicentennial year of his birth and recognize the Braille Revival League of Texas for its work in fostering the use of Braille in our state; and, be it further

RESOLVED, That a copy of this Resolution be prepared to commemorate the life and work of Louis Braille.

**SR 446** was again read.

The resolution was previously adopted on Thursday, March 19, 2009.

### **GUESTS PRESENTED**

Senator Zaffirini, on behalf of Senator Van de Putte, was recognized and introduced to the Senate Larry Johnson, President, Alamo Council of the Blind, and Judy Jackson, President, Braille Revival League of Texas of the American Council of The Blind, accompanied by John Nolan, Jamelle Hodges, Amy Flores, Mary Faith Price, and Katherine Solomon.

The Senate welcomed its guests.

### **INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED**

The Presiding Officer announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

**CONCLUSION OF MORNING CALL**

The Presiding Officer, Senator Carona in Chair, at 11:42 a.m. announced the conclusion of morning call.

**SENATE BILL 347 WITH HOUSE AMENDMENT**

Senator Nelson called **SB 347** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend **SB 347** (House committee report) in SECTION 5 of the bill, in added Section 161.00735(a), Health and Safety Code (page 5, lines 7-8 of the bill), by striking "has the meaning assigned by Section 418.004, Government Code" and substituting "means a disaster declared by the president of the United States, the governor of this state, or the governor of another state".

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 347**.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

**SENATE RULES SUSPENDED  
(Posting Rules)**

On motion of Senator Nelson and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Health and Human Services might meet and consider **SB 2573** today.

**COMMITTEE SUBSTITUTE  
SENATE BILL 485 ON SECOND READING**

Senator Deuell moved to suspend the regular order of business to take up for consideration **CSSB 485** at this time on its second reading:

**CSSB 485**, Relating to medical loss ratios of preferred provider benefit plan issuers.

The motion prevailed.

Senator Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 485** by striking all below the enacting clause and substituting the following:

SECTION 1. Subtitle A, Title 8, Insurance Code, is amended by adding Chapter 1223 to read as follows:

CHAPTER 1223. MEDICAL LOSS RATIOSec. 1223.001. DEFINITIONS. In this chapter:(1) "Enrollee" has the meaning assigned by Section 1457.001.(2) "Evidence of coverage" has the meaning assigned by Section 843.002.(3) "Market segment" means, as applicable, one of the following categories of health benefit plans issued by a health benefit plan issuer:(A) individual evidences of coverage issued by a health maintenance organization;(B) individual preferred provider benefit plans;(C) evidences of coverage issued by a health maintenance organization to small employers as defined by Section 1501.002;(D) preferred provider benefit plans issued to small employers as defined by Section 1501.002;(E) evidences of coverage issued by a health maintenance organization to large employers as defined by Section 1501.002; and(F) preferred provider benefit plans issued to large employers as defined by Section 1501.002.(4) "Medical loss ratio" means direct losses incurred and direct losses paid for all preferred provider benefit plans issued by an insurer, divided by direct premiums earned for all preferred provider benefit plans issued by that insurer. This amount may not include home office and overhead costs, advertising costs, network development costs, commissions and other acquisition costs, taxes, capital costs, administrative costs, utilization review costs, or claims processing costs.Sec. 1223.002. APPLICABILITY OF CHAPTER. (a) This chapter applies to a health benefit plan issuer that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:(1) an insurance company;(2) a group hospital service corporation operating under Chapter 842;(3) a fraternal benefit society operating under Chapter 885;(4) a stipulated premium company operating under Chapter 884;(5) an exchange operating under Chapter 942;(6) a health maintenance organization operating under Chapter 843; or(7) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844.(b) Notwithstanding any other law, this chapter applies to a health benefit plan issuer with respect to a standard health benefit plan provided under Chapter 1507.(c) Notwithstanding Section 1501.251 or any other law, this chapter applies to a health benefit plan issuer with respect to coverage under a small employer health benefit plan subject to Chapter 1501.Sec. 1223.003. EXCEPTIONS. This chapter does not apply with respect to:(1) a plan that provides coverage:

(A) for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury;

(B) as a supplement to a liability insurance policy;

(C) for credit insurance;

(D) only for dental or vision care;

(E) only for hospital expenses; or

(F) only for indemnity for hospital confinement;

(2) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

(3) a Medicaid managed care program operated under Chapter 533, Government Code;

(4) Medicaid programs operated under Chapter 32, Human Resources Code;

(5) the state child health plan operated under Chapter 62 or 63, Health and Safety Code;

(6) a workers' compensation insurance policy; or

(7) medical payment insurance coverage provided under a motor vehicle insurance policy.

Sec. 1223.004. NOTIFICATION OF MEDICAL LOSS RATIO, MEDICAL COST MANAGEMENT, AND HEALTH EDUCATION COST. (a) A health benefit plan issuer shall report its medical loss ratio for each market segment, as applicable, with the annual report required under Section 843.155 or 1301.009. Beginning in the fourth year during which a health benefit plan issuer is required to make a report under this section, the issuer may report the medical loss ratio as a three-year rolling average.

(b) Each health benefit plan issuer shall include in the report described by Subsection (a), for each market segment, a separate report of costs attributed to medical cost management and health education. The commissioner by rule shall prescribe the reporting requirements for the costs, which may include:

(1) case management activities;

(2) utilization review;

(3) detection and prevention of payment of fraudulent requests for reimbursement;

(4) network access fees to preferred provider organizations and other network-based health benefit plans, including prescription drug networks, and allocated internal salaries and related costs associated with network development or provider contracting;

(5) consumer education solely relating to health improvement and relying on the direct involvement of health personnel, including smoking cessation and disease management programs and other programs that involve medical education;

(6) telephone hotlines, including nurse hotlines, that provide enrollees health information and advice regarding medical care; and

(7) expenses for internal and external appeals processes.

(c) The department shall post on the department's Internet website or another website maintained by the department for the benefit of consumers or enrollees:

(1) the information received under Subsections (a) and (b);

(2) an explanation of the meaning of the term "medical loss ratio," how the medical loss ratio is calculated, and how the ratio may affect consumers or enrollees; and

(3) an explanation of the types of activities and services classified as medical cost management and health education, how the costs for these activities and services are calculated, what those costs, when aggregated with a medical loss ratio, mean, and how the costs might affect consumers or enrollees.

(d) A health benefit plan issuer shall provide each enrollee or the plan sponsor, as applicable, with the Internet website address at which the enrollee or plan sponsor may access the information described by Subsection (c). A health benefit plan issuer must provide the information required under this subsection:

(1) to an enrollee, at the time of the initial enrollment of the enrollee in a health benefit plan issued by the health benefit plan issuer; and

(2) at the time of renewal of a health benefit plan to:

(A) each enrollee, if the health benefit plan is an individual health benefit plan; or

(B) the plan sponsor, if the health benefit plan is a group health benefit plan.

(e) The commissioner shall adopt rules necessary to implement this section.

SECTION 2. The change in law made by this Act applies only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2011. A health benefit plan that is delivered, issued for delivery, or renewed before January 1, 2011, is covered by the law in effect at the time the health benefit plan was delivered, issued for delivery, or renewed, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

The amendment to **CSSB 485** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Williams.

Absent-excused: Averitt, Van de Putte.

On motion of Senator Deuell and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 485** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Williams.

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE**  
**SENATE BILL 485 ON THIRD READING**

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 485** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Williams.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE**  
**SENATE BILL 1120 ON THIRD READING**

Senator West moved to suspend the regular order of business to take up for consideration **CSSB 1120** at this time on its third reading and final passage:

**CSSB 1120**, Relating to reports on racial profiling in connection with motor vehicle stops; providing a penalty.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Estes, Gallegos, Hegar, Hinojosa, Lucio, Nichols, Seliger, Shapleigh, Uresti, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Eltife, Fraser, Harris, Huffman, Jackson, Nelson, Ogden, Patrick, Shapiro.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 19, Nays 10.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Estes, Gallegos, Hinojosa, Lucio, Nichols, Seliger, Shapleigh, Uresti, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Eltife, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Ogden, Patrick, Shapiro.

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE**  
**SENATE BILL 2170 ON SECOND READING**

Senator Seliger moved to suspend the regular order of business to take up for consideration **CSSB 2170** at this time on its second reading:

**CSSB 2170**, Relating to the amount and use of certain fees imposed in connection with oil and gas activities.

The motion prevailed.

Senator Ogden asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Ogden.

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 2170 ON THIRD READING**

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2170** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Ogden.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 795 ON SECOND READING**

Senator Fraser moved to suspend the regular order of business to take up for consideration **CSSB 795** at this time on its second reading:

**CSSB 795**, Relating to the audit of certain river authorities.

The motion prevailed.

Senator Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Williams.

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 795 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 795** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Williams.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 2304 ON SECOND READING**

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 2304** at this time on its second reading:

**CSSB 2304**, Relating to the amount of hazardous duty pay for certain employees of the Texas Department of Criminal Justice.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 2304 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2304** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**SENATE BILL 1566 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1566** at this time on its second reading:

**SB 1566**, Relating to the acquisition, dissemination, and use of certain geographic information system data.

The bill was read second time.

Senator Shapleigh offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **SB 1566** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill as appropriate:

SECTION \_\_\_\_\_. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

The amendment to **SB 1566** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1 except as follows:

Absent-excused: Averitt, Van de Putte.

On motion of Senator Shapleigh and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**SB 1566** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Averitt, Van de Putte.

#### **SENATE BILL 1566 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1566** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

#### **SENATE BILL 1764 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1764** at this time on its second reading:

**SB 1764**, Relating to the dissemination of information regarding the cost of attending public and private institutions of higher education and regarding the availability of financial aid to assist in paying that cost.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Averitt, Van de Putte.

#### **SENATE BILL 1764 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1764** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

(Senator Eltife in Chair)

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE  
SENATE BILL 1317 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSSB 1317** at this time on its second reading:

**CSSB 1317**, Relating to education and examination requirements for the issuance of a driver's license to certain persons.

Senator Wentworth withdrew the motion to suspend the regular order of business.

**COMMITTEE SUBSTITUTE  
SENATE BILL 883 ON SECOND READING**

Senator Carona moved to suspend the regular order of business to take up for consideration **CSSB 883** at this time on its second reading:

**CSSB 883**, Relating to the use of the state highway fund to participate in the costs associated with a toll facility of a public or private entity.

The motion prevailed.

Senator Ogden asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Ogden.

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 883 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 883** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Ogden.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1. (Same as previous roll call)

**HOUSE BILL 2626 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2626** at this time on its second reading:

**HB 2626**, Relating to the forensic medical examination of a sexual assault victim who has not reported the assault to a law enforcement agency.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2626** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION \_\_\_\_\_. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

The amendment to **HB 2626** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Averitt, Van de Putte.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 2626** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Averitt, Van de Putte.

**HOUSE BILL 2626 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2626** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1730 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1730** at this time on its second reading:

**CSSB 1730**, Relating to minimum training standards for employees of certain child-care facilities.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1730 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1730** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 2554 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 2554** at this time on its second reading:

**CSSB 2554**, Relating to a bailiff for the 130th District Court.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 2554 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2554** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**HOUSE BILL 3456 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3456** at this time on its second reading:

**HB 3456**, Relating to the education and preparation of resident physicians.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Averitt, Van de Putte.

**HOUSE BILL 3456 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3456** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 2501 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 2501** at this time on its second reading:

**CSSB 2501**, Relating to the creation of the North Oak Cliff Municipal Management District; providing the authority to impose an assessment, impose a tax, and issue bonds.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 2501 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2501** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 206 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 206** at this time on its second reading:

**CSSB 206**, Relating to the reporting of information concerning the rescission of health benefit plans.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 206 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 206** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**SENATE BILL 1789 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **SB 1789** at this time on its second reading:

**SB 1789**, Relating to certain proceedings relating to an individual's will.

The motion prevailed.

Senators Williams and Zaffirini asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Williams, Zaffirini.

Absent-excused: Averitt, Van de Putte.

**SENATE BILL 1789 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1789** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Watson, Wentworth, West, Whitmire.

Nays: Williams, Zaffirini.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 2. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 2351 ON SECOND READING**

Senator Ogden moved to suspend the regular order of business to take up for consideration **CSSB 2351** at this time on its second reading:

**CSSB 2351**, Relating to a student health services fee at component institutions of The Texas A&M University System and to authorizing the financing, construction, maintenance, and improvement of health facilities with the fee at the institutions.

The motion prevailed.

Senators Hegar and Huffman asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Hegar, Huffman.

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 2351 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2351** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Hegar, Huffman.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 2. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 207 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 207** at this time on its second reading:

**CSSB 207**, Relating to prohibition of certain business practices related to rescission of coverage under health benefit plans.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 207 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 207** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1600 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1600** at this time on its second reading:

**CSSB 1600**, Relating to an interim study on the creation of a data collection to track specialized technology research projects conducted by public universities, public university research facilities, and other state institutions.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1600** (committee printing), in SECTION 1 of the bill, as follows:

(1) On page 1, line 41, between "biomedical science research" and ";" insert ", including research that involves stem cells or human cloning";

(2) On page 1, line 58, strike "and";

(3) On page 1, line 59, strike "." and insert "; and"

(4) On page 1, between lines 59 and 60, insert new (v) to read as follows:

(v) the process through which any stem cells and stem cell lines utilized were derived.

The amendment to **CSSB 1600** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Averitt, Van de Putte.

On motion of Senator Watson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 1600** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1600 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1600** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1383 ON SECOND READING**

Senator Carona moved to suspend the regular order of business to take up for consideration **CSSB 1383** at this time on its second reading:

**CSSB 1383**, Relating to the creation and administration of the Texas Local Participation Transportation Program.

The motion prevailed.

Senator Ogden asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Ogden.

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1383 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1383** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Ogden.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 2440 ON SECOND READING**

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 2440** at this time on its second reading:

**CSSB 2440**, Relating to authorizing a dissolution election for the Bexar Metropolitan Water District and providing an oversight mechanism for the district, including enforcement authority.

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 2440** as follows:

(1) In SECTION 3 of the bill, in added Subdivision (1), Subsection (b), Section 34A (committee printing page 2, line 61), strike "supervise" and substitute "collectively coordinate".

(2) In SECTION 3 of the bill, in added Subdivision (2), Subsection (b), Section 34A (committee printing page 2, line 62), strike "take immediate action" and substitute "work with the Board".

(3) In SECTION 3 of the bill, in added Subdivision (3), Subsection (b), Section 34A (committee printing page 2, line 66), between "develop" and "a comprehensive" insert "and work to implement".

(4) In SECTION 3 of the bill, in added Subsection (a), Section 34B (committee printing page 4, line 16), strike "implementing" and substitute "developing and working to implement".

The amendment to **CSSB 2440** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Averitt, Van de Putte.

On motion of Senator Uresti and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 2440** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 2440 ON THIRD READING**

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2440** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**SENATE BILL 778 WITH HOUSE AMENDMENT**

Senator Watson called **SB 778** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Eltife in Chair, laid the bill and the House amendment before the Senate.

**Amendment**

Amend **SB 778** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the licensing and regulation of identity recovery service contract providers and the inclusion of identity recovery service agreements in certain service contracts and vehicle protection products; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 348.208(b), Finance Code, is amended to read as follows:

(b) A retail installment contract may include as a separate charge an amount for:

- (1) motor vehicle property damage or bodily injury liability insurance;
- (2) mechanical breakdown insurance;
- (3) participation in a motor vehicle theft protection plan;
- (4) insurance to reimburse the retail buyer for the amount computed by

subtracting the proceeds of the buyer's basic collision policy on the motor vehicle from the amount owed on the vehicle if the vehicle has been rendered a total loss; ~~or~~

(5) a warranty or service contract relating to the motor vehicle; or

(6) an identity recovery service contract defined by Section 1306.003,

Occupations Code.

SECTION 2. Section 1304.003(b), Occupations Code, is amended to read as follows:

(b) A service contract may also provide for:

(1) incidental payment or indemnity under limited circumstances, including towing, rental, and emergency road service; ~~or~~

(2) the repair or replacement of a product for damage resulting from a power surge or for accidental damage incurred in handling the product; or

(3) identity recovery, as defined by Section 1306.002, if the service contract is financed under Chapter 348, Finance Code.

SECTION 3. Title 8, Occupations Code, is amended by adding Chapter 1306 to read as follows:

CHAPTER 1306. IDENTITY RECOVERY SERVICE CONTRACT PROVIDERS  
AND ADMINISTRATORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1306.001. SHORT TITLE. This chapter may be cited as the Identity Recovery Service Contract Regulatory Act.

Sec. 1306.002. DEFINITIONS. In this chapter:

(1) "Administrator" means a person, other than the provider of the identity recovery service contract or an employee of the provider, who is responsible for the third-party administration of an identity recovery service contract.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Consumer" means an individual who, for a purpose other than resale, buys a motor vehicle that is:

(A) distributed in commerce; and

(B) normally used for personal, family, or household purposes and not for business or research purposes.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Executive director" means the executive director of the department.

(6) "Identity recovery" means a process, through a limited power of attorney and the assistance of an identity recovery expert, that returns the identity of an identity theft victim to pre-identity theft event status.

(7) "Identity recovery service contract holder" means a person who purchases or otherwise holds an identity recovery service contract.

(8) "Person" means an individual or an association, company, corporation, partnership, or other group.

(9) "Provider" means a person who is contractually obligated to an identity recovery service contract holder under the terms of an identity recovery service contract.

(10) "Reimbursement insurance policy" means a policy of insurance issued to a provider to:

(A) reimburse the provider under an identity recovery service contract the provider issued or sold; or

(B) pay on behalf of the provider all covered contractual obligations that are incurred by the provider under an identity recovery service contract the provider issued or sold and that the provider does not perform.

Sec. 1306.003. IDENTITY RECOVERY SERVICE CONTRACT. In this chapter, "identity recovery service contract" means an agreement:

(1) to provide identity recovery;

(2) that is entered into for a separately stated consideration and for a specified term; and

(3) that is financed through a retail installment contract under Chapter 348, Finance Code.

Sec. 1306.004. CONTROLLING PERSON. (a) In this chapter, "controlling person" means an individual who:

(1) possesses direct or indirect control of at least 25 percent of the voting securities of a corporation;

(2) possesses the authority to set policy and direct the management of a business entity;

(3) is the president, the secretary, or a director of a corporation; or

(4) is a general partner of a partnership.

(b) An individual who is a controlling person of a corporation or other business entity that is the general partner of a limited partnership is a controlling person of the limited partnership.

Sec. 1306.005. EXEMPTIONS. This chapter does not apply to:

(1) an identity recovery service contract sold or offered for sale to a person who is not a consumer; or

(2) an identity recovery service contract sold by a motor vehicle dealer on a motor vehicle sold by that dealer, if the dealer:

(A) is the provider;

(B) is licensed as a motor vehicle dealer under Chapter 2301; and

(C) covers its obligations under the identity recovery service contract with a reimbursement insurance policy.

Sec. 1306.006. EXEMPTIONS FROM CERTAIN OTHER LAWS. Marketing, selling, offering for sale, issuing, making, proposing to make, and administering an identity recovery service contract are exempt from the Insurance Code and other laws of this state regulating the business of insurance.

Sec. 1306.007. PURCHASE REQUIREMENT PROHIBITED. A person regulated by Chapter 2301 may not require the purchase of an identity recovery service contract as a condition of a loan or the sale of a vehicle.

Sec. 1306.008. GENERAL INVESTIGATIVE POWER OF EXECUTIVE DIRECTOR. (a) The executive director may investigate a provider, administrator, or other person as necessary to enforce this chapter and protect identity recovery service contract holders in this state.

(b) On request of the executive director, a provider shall make the records required by Section 1306.105 available to the executive director as necessary to enable the executive director to reasonably determine compliance with this chapter.

[Sections 1306.009-1306.050 reserved for expansion]

#### SUBCHAPTER B. REGISTRATION REQUIREMENTS

Sec. 1306.051. REGISTRATION REQUIRED; EXEMPTION FROM OTHER LICENSING REQUIREMENTS. (a) A person may not operate as a provider or administrator of identity recovery service contracts sold in this state unless the person is registered with the department.

(b) Except for the registration requirement of this subchapter, a provider, identity recovery service contract seller, administrator, or other person who markets, sells, or offers to sell identity recovery service contracts is exempt from any licensing requirement of this state that relates to an activity regulated under this chapter.

(c) If a person registered under Chapter 1304 registers under Chapter 1306, the financial security used to comply with Section 1304.151 fulfills the requirements of Section 1306.101.

Sec. 1306.052. APPLICATION FOR REGISTRATION OR RENEWAL; GENERAL REQUIREMENTS. (a) An applicant for registration or registration renewal must submit an application to the executive director.

(b) The application must:

(1) be in the form prescribed by the executive director; and

(2) include evidence satisfactory to the executive director of compliance with the applicable financial security requirements prescribed by Section 1306.101, if the application is for a provider registration or renewal.

(c) The department may refuse to issue or renew a registration if the applicant or a controlling person of the applicant has violated this chapter or a rule adopted or order issued by the commission or executive director.

(d) A person who makes a false statement in an application or in any document provided with an application is subject to disciplinary action under Subchapter D, including denial of the application or suspension or revocation of a registration.

Sec. 1306.053. ADDITIONAL REGISTRATION AND RENEWAL REQUIREMENTS FOR PROVIDERS. (a) In addition to the requirements of Section 1306.052, an applicant for issuance or renewal of a provider registration must file with the application:

(1) the reimbursement insurance policy required by Section 1306.102, if the provider is using a reimbursement insurance policy; and

(2) a biographical affidavit, in a form prescribed by the executive director, for each controlling person of the provider.

(b) The executive director may not issue or renew a registration to a provider unless the provider provides evidence to the executive director that:

(1) each controlling person of the provider is trustworthy and can competently manage the affairs of the provider in compliance with this chapter; and

(2) the provider can meet the provider's obligations under identity recovery service contracts and this chapter.

Sec. 1306.054. FEES. (a) As prescribed by this section, a provider must pay annual registration and renewal fees and quarterly fees based on the number of identity recovery service contracts sold or issued and in force in this state. As prescribed by this section, an administrator must pay annual registration and renewal fees.

(b) To register or renew a registration, a provider or administrator must pay the appropriate fee. The commission shall set by rule the amounts of the registration and renewal fees required to cover the costs of administering this chapter.

(c) Not later than the 30th day after the date each calendar quarter ends, a provider must report to the department the number of identity recovery service contracts sold or issued to consumers in this state during the calendar quarter and submit to the department a fee equal to \$1 for each of those contracts.

(d) The information concerning the number of identity recovery service contracts sold or issued by a provider that is submitted under Subsection (c):

(1) is a trade secret to which Section 552.110, Government Code, applies;  
and

(2) may be used only by the executive director and the department for the purposes of this section.

(e) The commission shall adopt rules to implement this section.

Sec. 1306.055. RENEWAL. The commission shall adopt rules regarding the renewal of a registration issued under this chapter.

[Sections 1306.056-1306.100 reserved for expansion]

SUBCHAPTER C. PRACTICE BY IDENTITY RECOVERY SERVICE  
CONTRACT PROVIDERS AND ADMINISTRATORS

Sec. 1306.101. FINANCIAL SECURITY REQUIREMENTS. (a) To ensure the faithful performance of a provider's obligations to its identity recovery service contract holders, each provider must:

(1) insure the provider's identity recovery service contracts under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state or by a surplus lines insurer eligible to place coverage in this state under Chapter 981, Insurance Code;

(2) maintain a funded reserve account covering the provider's obligations under its identity recovery service contracts that are issued and outstanding in this state and place in trust with the executive director a financial security deposit consisting of:

(A) a surety bond issued by an authorized surety;

(B) securities of the type eligible for deposit by an authorized insurer in this state;

(C) a statutory deposit of cash or cash equivalents;

(D) a letter of credit issued by a qualified financial institution; or

(E) another form of security prescribed by rules adopted by the commission; or

(3) maintain, or have a parent company that maintains, a net worth or stockholders' equity of at least \$100 million.

(b) If the provider ensures its obligations under Subsection (a)(2), the amount maintained in the reserve account may not be less than an amount equal to 40 percent of the gross consideration the provider received from consumers from the sale of all identity recovery service contracts issued and outstanding in this state, minus any claims paid. The executive director may review and examine the reserve account. The amount of the security deposit may not be less than the greater of:

(1) \$25,000; or

(2) an amount equal to five percent of the gross consideration the provider received from consumers from the sale of all identity recovery service contracts issued and outstanding in this state, minus any claims paid.

(c) If the provider ensures its obligations under Subsection (a)(3), the provider must give to the executive director on request:

(1) a copy of the provider's or the provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission within the preceding calendar year; or

(2) if the provider or the provider's parent company does not file with the Securities and Exchange Commission, a copy of the provider's or the provider's parent company's audited financial statements showing a net worth of the provider or its parent company of at least \$100 million.

(d) If the provider's parent company's Form 10-K, Form 20-F, or audited financial statements are filed to show that the provider meets the financial security requirement, the parent company shall agree to guarantee the obligations of the provider relating to identity recovery service contracts sold by the provider in this state.

(e) The executive director may not require a provider to meet any additional financial security requirement.

Sec. 1306.102. REIMBURSEMENT INSURANCE POLICY. (a) A reimbursement insurance policy that a provider uses to comply with Sections 1306.053 and 1306.101(a)(1) must state that:

(1) the insurer that issued the policy shall:

(A) reimburse or pay on behalf of the provider any covered amount the provider is legally obligated to pay; or

(B) provide the service that the provider is legally obligated to perform according to the provider's contractual obligations under the insured identity recovery service contract;

(2) if the covered service is not provided to an identity recovery service contract holder before the 61st day after the date of proof of loss, the insurer shall pay the covered amount directly to the identity recovery service contract holder or provide the required service; and

(3) if a refund is not paid to the identity recovery service contract holder or credited to the identity recovery service contract holder's account as required by Section 1306.108, the insurer, after receiving written notice, shall pay the refund amount directly to the identity recovery service contract holder.

(b) For a reimbursement insurance policy to comply with Section 1306.101(a)(1), the insurer issuing the policy must:

(1) maintain surplus as to policyholders and paid-in capital of at least \$15 million and annually file with the executive director copies of the insurer's audited financial statements, National Association of Insurance Commissioners annual statement, and actuarial certification if the certification is required and filed in the insurer's state of domicile; or

(2) maintain surplus as to policyholders and paid-in capital of at least \$10 million but not more than \$15 million, demonstrate to the satisfaction of the executive director that the insurer maintains a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not more than three to one, and annually file with the executive director copies of the insurer's audited financial statements, National Association of Insurance Commissioners annual statement, and actuarial certification if the certification is required and filed in the insurer's state of domicile.

(c) The insurer may not cancel the reimbursement insurance policy until the insurer delivers to the provider and the executive director a written notice of cancellation that complies with the notice requirements prescribed by Subchapters B and C, Chapter 551, Insurance Code, for cancellation of an insurance policy under those subchapters. Cancellation of the policy does not affect the insurer's liability for an identity recovery service contract issued by the provider and insured under the policy before the effective date of the cancellation.

(d) If the insurer or provider cancels the reimbursement insurance policy, the provider named on the policy may not issue a new identity recovery service contract after the effective date of the cancellation unless:

(1) the provider files with the executive director a copy of a new policy that meets the requirements of this section and that provides coverage after that date; or

(2) the provider complies with other financial security requirements provided by Section 1306.101(a).

(e) A provider is considered the agent of an insurer that issues a reimbursement insurance policy for purposes of obligating the insurer to the identity recovery service contract holder in accordance with the identity recovery service contract and this chapter. The insurer issuing the reimbursement insurance policy is considered to have received the premium for the policy on the date the identity recovery service contract holder pays the purchase price of the identity recovery service contract.

(f) This chapter does not prevent or limit the right of the insurer to seek indemnification or subrogation against a provider for any amount the insurer pays or is obligated to pay to an identity recovery service contract holder on behalf of the provider.

(g) In this section, "net written premiums" means the sum of direct written premiums and assumed reinsurance premiums, minus ceded reinsurance premiums.

Sec. 1306.103. APPOINTMENT AND RESPONSIBILITIES OF ADMINISTRATOR. (a) A provider may appoint an administrator registered under this chapter to be responsible for:

(1) all or any part of the administration or sale of identity recovery service contracts; and

(2) compliance with this chapter, except for Section 1306.101.

(b) The appointment of an administrator under this section does not affect a provider's responsibility to comply with this chapter.

Sec. 1306.104. PROVIDER REQUIREMENTS. A provider may not sell, offer for sale, or issue an identity recovery service contract in this state unless the provider gives the identity recovery service contract holder:

(1) a receipt for, or other written evidence of, the purchase of the contract; and

(2) a copy of the contract within a reasonable period after the date of purchase.

Sec. 1306.105. PROVIDER RECORDS. (a) A provider shall maintain accurate accounts, books, and other records regarding transactions regulated under this chapter. The provider's records must include:

(1) a copy of each unique form of identity recovery service contract sold;

(2) the name and address of each identity recovery service contract holder who provided the holder's name and address;

(3) a list of each location at which the provider's identity recovery service contracts are marketed, sold, or offered for sale; and

(4) written claims files that contain at least the date and a description of each claim related to the identity recovery service contracts.

(b) The records required by this section may be maintained in an electronic medium or through other recordkeeping technology. If a record is not in a hard copy, the provider must be able to reformat the record into a legible hard copy at the request of the executive director.

(c) Except as provided by Subsection (d), a provider shall retain the records required by this section until at least the first anniversary of the expiration date of the specified period of coverage under the identity recovery service contract.

(d) A provider that discontinues business in this state shall retain its records until the provider furnishes the executive director with proof satisfactory to the executive director that the provider has discharged all obligations to identity recovery service contract holders in this state.

(e) An administrator appointed to maintain the provider's records is responsible for compliance with this section to the same extent as the provider.

Sec. 1306.106. FORM OF IDENTITY RECOVERY SERVICE CONTRACT AND REQUIRED DISCLOSURES. (a) An identity recovery service contract marketed, sold, offered for sale, issued, made, proposed to be made, or administered in this state must:

(1) be written, printed, or typed in clear, understandable language that is easy to read;

(2) state the name and address of the provider;

(3) state the purchase price of the contract and the terms under which the contract is sold;

(4) state the terms and restrictions governing cancellation of the contract by the provider or the identity recovery service contract holder before the expiration date of the contract;

(5) identify:

(A) any administrator;

(B) the contract seller; and

(C) the identity recovery service contract holder, if the identity recovery service contract holder provides the holder's name;

(6) state the amount of any deductible;

(7) specify the services to be provided under the contract and any limitation, exception, or exclusion;

(8) specify any restriction governing the transferability of the contract; and

(9) state the duties of the identity recovery service contract holder, including any duty to protect against any further damage and any requirement to follow the instructions in the identity recovery service contract.

(b) The identity of a person described by Subsection (a)(5) is not required to be preprinted on the identity recovery service contract and may be added to the contract at the time of sale.

(c) The purchase price is not required to be preprinted on the identity recovery service contract and may be negotiated with the identity recovery service contract holder at the time of sale.

(d) An identity recovery service contract insured under a reimbursement insurance policy under Section 1306.102 must:

(1) state the name and address of the insurer;

(2) state that the identity recovery service contract holder may apply for reimbursement directly to the insurer if:

(A) a covered service is not provided to the identity recovery service contract holder by the provider before the 61st day after the date of proof of loss; or

(B) a refund or credit is not paid before the 46th day after the date on which the contract is returned to the provider under Section 1306.107; and

(3) contain a statement substantially similar to the following: "Obligations of the provider under this identity recovery service contract are insured under an identity recovery service contract reimbursement insurance policy."

(e) An identity recovery service contract that is not insured under a reimbursement insurance policy must contain a statement substantially similar to the following: "Obligations of the provider under this identity recovery service contract are backed by the full faith and credit of the provider."

Sec. 1306.107. RETURNING AN IDENTITY RECOVERY SERVICE CONTRACT. An identity recovery service contract must require the provider to allow the identity recovery service contract holder to return the contract to the provider not later than:

(1) the 20th day after the date the contract is mailed to the identity recovery service contract holder; or

(2) the 10th day after the date of delivery, if the contract is delivered to the identity recovery service contract holder at the time of sale.

Sec. 1306.108. VOIDING AN IDENTITY RECOVERY SERVICE CONTRACT. (a) If an identity recovery service contract holder returns an identity recovery service contract in accordance with Section 1306.107 and a claim has not been made under the contract before the contract is returned, the contract is void.

(b) An identity recovery service contract holder may void the identity recovery service contract at a later time as provided by the contract.

(c) If an identity recovery service contract is voided under Subsection (a), the provider shall refund to the identity recovery service contract holder or credit to the account of the identity recovery service contract holder the full purchase price of the contract. If the provider does not pay the refund or credit the identity recovery service contract holder's account before the 46th day after the date the contract is returned to the provider, the provider is liable to the identity recovery service contract holder for a penalty each month an amount remains outstanding. The monthly penalty may not exceed 10 percent of the amount outstanding.

(d) The right to void an identity recovery service contract is not transferable.

Sec. 1306.109. CANCELING AN IDENTITY RECOVERY SERVICE CONTRACT. (a) A provider may cancel an identity recovery service contract by mailing a written notice of cancellation to the identity recovery service contract holder at the identity recovery service contract holder's last known address according to the records of the provider. The provider must mail the notice before the fifth day preceding the effective date of the cancellation. The notice must state the effective date of the cancellation and the reason for the cancellation.

(b) The provider is not required to provide prior notice of cancellation if the identity recovery service contract is canceled because of:

(1) nonpayment of the consideration for the contract;

(2) a material misrepresentation by the identity recovery service contract holder to the provider; or

(3) a substantial breach of a duty by the identity recovery service contract holder.

Sec. 1306.110. LIMITATIONS ON PROVIDER NAME. (a) A provider may not use a name that:

(1) includes "insurance," "casualty," "surety," or "mutual" or any other word descriptive of the insurance, casualty, or surety business; or

(2) is deceptively similar to the name or description of an insurance or surety corporation or to the name of any other provider.

(b) A provider may include in its name "guaranty" or a similar word.

(c) This section does not apply to a provider that, before September 1, 2009, included a word prohibited under this section in its name. A provider described by this subsection must include in each identity recovery service contract a statement substantially similar to the following: "This agreement is not an insurance contract."

Sec. 1306.111. MISLEADING STATEMENTS PROHIBITED. A provider or the provider's representative may not, in the provider's identity recovery service contracts or literature:

(1) make, permit, or cause to be made any false or misleading statement; or

(2) deliberately omit a material statement if the omission would be considered misleading.

[Sections 1306.112-1306.150 reserved for expansion]

#### SUBCHAPTER D. DISCIPLINARY ACTION

Sec. 1306.151. DISCIPLINARY ACTION. On a finding that a ground for disciplinary action exists under this chapter, the commission may impose an administrative sanction, including an administrative penalty as provided by Subchapter F, Chapter 51.

Sec. 1306.152. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The executive director may institute an action under Section 51.352 for injunctive relief to restrain a violation or a threatened violation of this chapter or an order issued or rule adopted under this chapter.

(b) In addition to the injunctive relief provided by Subsection (a), the executive director may institute an action for a civil penalty as provided by Section 51.352. The amount of a civil penalty assessed under this section may not exceed:

(1) \$2,500 for each violation; or

(2) \$50,000 in the aggregate for all violations of a similar nature.

Sec. 1306.153. MULTIPLE VIOLATIONS. For purposes of this subchapter, violations are of a similar nature if the violations consist of the same or a similar course of conduct, action, or practice, regardless of the number of times the conduct, act, or practice occurred.

Sec. 1306.154. ADMINISTRATIVE PROCEDURE. Sections 51.305, 51.310, and 51.354 apply to disciplinary action taken under this chapter.

SECTION 4. Section 2306.003, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) A vehicle protection product may also include identity recovery, as defined by Section 1306.002, if the vehicle protection product is financed under Chapter 348, Finance Code.

SECTION 5. (a) The change in law made by this Act applies to an identity recovery service contract entered into on or after January 1, 2010. An identity recovery service contract entered into before January 1, 2010, is covered by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

(b) Not later than November 1, 2009, the Texas Commission of Licensing and Regulation shall adopt rules to implement Chapter 1306, Occupations Code, as added by this Act.

SECTION 6. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) Section 1306.051 and Subchapter D, Chapter 1306, Occupations Code, as added by this Act, take effect January 1, 2010.

The amendment was read.

Senator Watson moved to concur in the House amendment to **SB 778**.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

#### **PERMISSION TO INTRODUCE BILL**

On motion of Senator Watson and by unanimous consent, Senate Rule 7.07(b) was suspended to permit the introduction of the following bill: **SB 2576**.

#### **(President Pro Tempore Duncan in Chair)**

#### **COMMITTEE SUBSTITUTE SENATE BILL 1570 ON SECOND READING**

Senator Carona moved to suspend the regular order of business to take up for consideration **CSSB 1570** at this time on its second reading:

**CSSB 1570**, Relating to the facilitation, analysis, and implementation of high-speed passenger rail in this state.

The motion prevailed.

Senators Duncan, Huffman, and Ogden asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Duncan, Hegar, Huffman, Ogden.

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1570 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1570** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Carona, Davis, Deuell, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Duncan, Huffman, Ogden.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 4.

Yeas: Carona, Davis, Deuell, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Duncan, Hegar, Huffman, Ogden.

Absent-excused: Averitt, Van de Putte.

**VOTE RECONSIDERED ON  
COMMITTEE SUBSTITUTE SENATE BILL 2351**

On motion of Senator Ogden and by unanimous consent, the vote by which **CSSB 2351** was finally passed was reconsidered:

**CSSB 2351**, Relating to a student health services fee at component institutions of The Texas A&M University System and to authorizing the financing, construction, maintenance, and improvement of health facilities with the fee at the institutions.

Question — Shall **CSSB 2351** be finally passed?

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1 on Third Reading**

Amend **CSSB 2351** (Senate committee printing) on third reading in SECTION 2 of the bill, on page 1, line 40 by striking "September" and substituting "January".

The amendment to **CSSB 2351** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading except as follows:

Absent-excused: Averitt, Van de Putte.

On motion of Senator Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 2351** as amended was again finally passed by the following vote: Yeas 27, Nays 2.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Hegar, Huffman.

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE**  
**SENATE BILL 1598 ON SECOND READING**

Senator Watson moved to suspend the regular order of business to take up for consideration **CSSB 1598** at this time on its second reading:

**CSSB 1598**, Relating to an agreement authorizing a nonparent relative of a child to make certain decisions regarding the child; providing a penalty.

The motion prevailed.

Senators Harris, Patrick, and Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1598**, in SECTION 1 of the bill, as follows:

(1) In proposed Sec. 34.002, Family Code, add Subsection (c) to read as follows:

(c) An authorization agreement under this chapter does not confer on a relative of the child listed in Section 34.001 the right to authorize the performance of an abortion on the child or the administration of emergency contraception to the child.;

(2) In proposed Sec. 34.003(b)(10), on page 3, line 12, strike "and";

(3) In proposed Sec. 34.003(b)(11), on page 3, line 18, strike ";" and insert "; and"; and

(4) In proposed Sec. 34.003(b), on page 3, between lines 18 and 19, insert new (12) to read as follows:

(12) that the authorization agreement does not confer on a relative of the child the right to authorize the performance of an abortion on the child or the administration of emergency contraception to the child.

The amendment to **CSSB 1598** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Averitt, Van de Putte.

On motion of Senator Watson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 1598** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Harris, Patrick, Williams.

Absent-excused: Averitt, Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1598 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1598** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris, Patrick, Williams.

Absent-excused: Averitt, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 3. (Same as previous roll call)

**SENATE BILL ON FIRST READING**

The following bill was introduced, read first time, and referred to the committee indicated:

**SB 2576** by Watson

Relating to the authority of a commissioner of the Texas Workforce Commission.  
To Committee on Economic Development.

**HOUSE BILLS AND RESOLUTION ON FIRST READING**

The following bills and resolution received from the House were read first time and referred to the committees indicated:

**HB 78** to Committee on Intergovernmental Relations.

**HB 167** to Committee on Criminal Justice.

**HB 410** to Committee on Criminal Justice.

**HB 1058** to Committee on State Affairs.

**HB 1324** to Committee on International Relations and Trade.

**HB 1433** to Committee on Natural Resources.

**HB 1487** to Committee on Health and Human Services.

**HB 1526** to Committee on Natural Resources.

**HB 1749** to Committee on Transportation and Homeland Security.

**HB 2063** to Committee on Natural Resources.

**HB 2083** to Committee on Finance.

**HB 2149** to Committee on State Affairs.

**HB 2236** to Committee on Criminal Justice.

**HB 2386** to Committee on Criminal Justice.

**HB 2490** to Committee on Transportation and Homeland Security.

**HB 4314** to Committee on Criminal Justice.

**HB 4593** to Committee on Agriculture and Rural Affairs.

**HB 4789** to Committee on Intergovernmental Relations.

**HJR 116** to Committee on Veteran Affairs and Military Installations.

### **SESSION TO CONSIDER EXECUTIVE APPOINTMENTS**

The President Pro Tempore announced the time had arrived to consider executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given yesterday by Senator Jackson.

Senator Jackson moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President Pro Tempore asked if there were requests to sever nominees.

Senator Shapleigh requested that the following nominee be severed:

Member, Texas Commission on Environmental Quality: Bryan Webb Shaw, Williamson County.

The request was granted.

### **NOMINEES CONFIRMED**

The following nominees, not severed and reported yesterday by the Committee on Nominations, were confirmed by the following vote: Yeas 29, Nays 0.

Absent-excused: Averitt, Van de Putte.

Members, Texas Medical Board: David Baucom, Hopkins County; Patrick J. Crocker, Travis County; John D. Ellis, Jr., Harris County; Manuel G. Guajardo, M.D., P.A., Cameron County; James "Scott" Holliday, D.O., Dallas County; Allan N. Shulkin, Dallas County; Wynne McCallie Snoots, Dallas County; Timothy J. Turner, Harris County; George Willeford, Travis County.

Judge, 141st Judicial District Court, Tarrant County: John Parrish Chupp, Tarrant County.

Presiding Judge, Second Administrative Judicial Region: Olen U. Underwood, Montgomery County.

Members, Aging and Disability Services Council: Glyn S. Crane, Gregg County; Carolyn Harvey, Smith County; Ann Schneider, Travis County; James Russell Shannon, Andrews County; David E. Young, Dallas County.

Members, Assistive and Rehabilitative Services Council: Lee Chayes, El Paso County; David Coco, Williamson County; Diego Demaya, Harris County; Berkley Dyer, Travis County; Donald Dennis Roy, Titus County; Mary Taylor "Jody" Unruh, Harris County.

Members, Oversight Committee, Cancer Prevention and Research Institute of Texas: Malcolm Gillis, Harris County; Faith Simmons Johnson, Dallas County; Scott Curtis Sanders, Hays County.

Members, Board of Directors, Central Colorado River Authority: Billy Bledsoe, Coleman County; Mathew Kemper Gaines, Coleman County; Kimberly Ethetton Home, Coleman County; Willis N. Hudson, Coleman County; Patrick Shane Justiss, Coleman County; David "Lance" McWhorter, Coleman County; Roger Nelson, Coleman County; Bruce N. Pittard, Coleman County; Andrew Mark Young, Coleman County.

Member, Correctional Managed Health Care Committee: Gerald Evenwel, Jr., Titus County.

Members, Credit Union Commission: David Jesus Cibrian, Bexar County; Gary L. Janacek, Bell County; A. John Yoggerst, Bexar County.

Members, Board of Directors, Family and Protective Services Council: Christina Rawls Martin, Hidalgo County; Imogen Sherman Papadopoulos, Harris County; Scott Rosenbach, Potter County.

Member, Judicial Compensation Commission: Cruz G. Hernandez, Tarrant County.

Members, Board of Directors, Lavaca-Navidad River Authority: Jon E. Bradford, Jackson County; Sherry Kay Frels, Jackson County; Olivia R. Jarratt, Jackson County.

Members, Board of Directors, Lower Colorado River Authority: Steve K. Balas, Colorado County; Lori A. Berger, Fayette County; John C. Dickerson III, Matagorda County; Rebecca Armendariz Klein, Bexar County; Tom Martine, Blanco County; Michael G. McHenry, San Saba County; Vernon Earl "Buddy" Schrader, Llano County; Richard R. Scott, Hays County; Franklin Scott Spears, Jr., Travis County; Timothy Theodor Timmerman, Travis County; Kathleen Hartnett White, Bastrop County.

Members, Board of Directors, Lower Neches Valley Authority: Lonnie Arrington, Jefferson County; Brian Babin, Tyler County; Steven M. McReynolds, Jefferson County; Matthew McDade Phelan, Jefferson County; Jordan William Reese IV, Jefferson County; James Olan Webb, Hardin County.

Members, Manufactured Housing Board: Devora Denise Mitchell, Winkler County; Paul "Pablo" Schneider, Collin County; Sheila M. Vallés-Pankratz, Hidalgo County; Donnie W. Wisenbaker, Hopkins County.

Members, Board of Directors, Nueces River Authority: W. Scott Bledsoe III, Live Oak County; Karen Olsen Bonner, Nueces County; Rebecca Bradford, Nueces County; Fernando Camarillo, Bexar County; Manuel D. Cano, Nueces County; Joe M. Cantu, Bandera County; James T. Clancy, San Patricio County; William I. Dillard, Uvalde County; Robert M. "Bobby" Dullnig, Bexar County; John W. Galloway, Bee County; Gary A. Jones, Bee County; Lindsey Alfred Koenig, Jim Wells County; Dan S. Leyendecker, Nueces County; Scott James Petty, Medina County; Curt William Raabe, Wilson County; Thomas M. Reding, Jr., San Patricio County; Roxana Proctor Tom, Atascosa County.

Inspector General, Office of Inspector General, Health and Human Services Commission: Kelly Bart Bevers, Williamson County.

Members, Real Estate Research Advisory Committee: Mona Reichelt Bailey, Tarrant County; James Michael Boyd, Harris County; Louis A. "Tony" Cortes, Bexar County; Joe Bob McCartt, Potter County; Kathleen McKenzie Owen, Bandera County; Ronald Charles Wakefield, Bexar County.

Members, Board of Directors, Red River Authority of Texas: Nathan James "Jim" Bell IV, Lamar County; Elizabeth C. "Lisa" Brent, Potter County; C. Cole Camp, Potter County; Penny Cogdell Carpenter, Briscoe County; Jerry B. Daniel, Knox County; Billy Mayfield McCraw II, Fannin County; George Wilson Scaling II, Clay County; Clyde M. Siebman, Grayson County; Cliff A. Skiles, Jr., D.V.M., Dallam County.

Members, Board of Directors, Rio Grande Regional Water Authority: Joe A. Barrera III, Cameron County; Dario V. Guerra, Jr., Hidalgo County; Wayne Morris Halbert, Cameron County; Paul Glen Heller, Hidalgo County; Sonny Hinojosa, Hidalgo County; Sonia Kaniger, Cameron County; Brian E. Macmanus, Cameron County; Joe A. Pennington, Willacy County; Roel Rodriguez, Hidalgo County; Samuel Robert Sparks, Jr., Cameron County; Jimmie E. Steidinger, Hidalgo County; Frank "JoJo" White, Hidalgo County.

Members, Risk Management Board: Ernest C. Garcia, Travis County; Lloyd M. Garland, M.D., Lubbock County; Ruben W. Hope, Jr., Montgomery County; Kenneth N. Mitchell, El Paso County.

Members, Board of Directors, Sabine River Authority: Don O. Covington, Orange County; J. D. Jacobs, Jr., Rockwall County; David Wayne Koonce, Shelby County; Cliff R. Todd, Panola County; Clarence Earl Williams, Orange County.

Members, Board of Directors, San Jacinto River Authority: David Carl Kleimann, Montgomery County; Robert Gary Montgomery, Montgomery County; Joe Stunja, Harris County; Lloyd B. Tisdale, Montgomery County; Joseph Vester Turner, Montgomery County.

Members, State Health Services Council: Kirk Aquilla Calhoun, M.D., Smith County; Lewis E. Foxhall, M.D., Harris County; Glenda Rubin Kane, Nueces County; Nasruddin Rupani, Fort Bend County; David Woolweaver, M.S.D., Cameron County.

Members, Board of Regents, The Texas A&M University System: Phillip David Adams, Brazos County; Richard Arthur Box, D.D.S., Travis County; Morris Edwin Foster, Harris County; Bill Jones, Travis County; James Eugene Schwertner, Jr., Travis County; James P. Wilson, Jr., Fort Bend County.

Members, Texas Board of Professional Geoscientists: Kelly Krenz Doe, Galveston County; Ben Harris, Collin County; Charles Saron Knobloch, Harris County.

Members, Texas Council on Autism and Pervasive Developmental Disorders: Michael R. Bernoski, Williamson County; Rick L. Campbell, Shelby County; Anna Penn Hundley, Dallas County; Frank C. McCamant, Travis County; Pamela Rollins, Dallas County; Stephanie Sokolosky, Lubbock County; Manuel M. Vela, Cameron County.

Members, Governing Board, Texas Department of Housing and Community Affairs: Leslie Bingham Escareño, Cameron County; Tomas Cardenas, Jr., P.E., El Paso County; C. Kent Conine, Dallas County; Tom H. Gann, Angelina County; Juan Sanchez Munoz, Lubbock County.

Members, Board of Directors, Texas Economic Development Corporation: Victor E. Leal, Randall County; Tracye McDaniel, Harris County.

Members, Texas Facilities Commission: Malcolm E. Beckendorff, Harris County; William Derek Darby, Harris County; Virginia I. Hermosa, Travis County; Brant C. Ince, Dallas County.

Members, Texas Industrialized Building Code Council: Robert L. Bowling IV, El Paso County; Joe D. Campos, Dallas County; Randall R. Childers, McLennan County; Mark George Delaney, Harris County; Amy Dempsey, Travis County; Martin J. Garza, Bexar County; Michael Mount, Denton County; Mark Remmert, Williamson County; Rolando R. Rubiano, P.E., Cameron County; Ravi Shah, Denton County; Larry E. Wilkinson, Galveston County.

Members, Texas Low-Level Radioactive Waste Disposal Compact Commission: Richard H. Dolgener, Andrews County; Michael S. Ford, Randall County; Bob Gregory, Travis County; Kenneth Lee Peddicord, Brazos County; John C. White, Collin County; Robert C. Wilson, Caldwell County.

Members, Board of Directors, Texas Public Finance Authority: Gerald Byron Alley, Tarrant County; Rodney Keith Moore, Angelina County; Gary Eugene Wood, Travis County.

Members, Texas Racing Commission: Ronald F. Ederer, Bexar County; Gloria Hicks, Nueces County; Thomas Latham, Dallas County; Rolando B. Pablos, Bexar County; Robert Herman Schmidt, Tarrant County; Vicki Smith Weinberg, Tarrant County.

Members, Board of Regents, Texas Southern University: Samuel Lee Bryant, Travis County; Dionicio "Don" Flores, El Paso County; Richard Knight, Jr., Dallas County; Curtistene Smith McCowan, Dallas County; Tracye McDaniel, Harris County.

Members, Board of Directors, Texas State Affordable Housing Corporation: William Henry "Bill" Dietz, Jr., McLennan County; Robert Elliott Jones, Nueces County; A. Cynthia Leon, Hidalgo County; Raymond Carter "Sandy" Sanders, Williamson County.

Members, Texas State Board of Pharmacy: Buford T. Abeldt, Sr., Angelina County; L. Suzan Kedron, Dallas County; Dennis Wiesner, Travis County.

Member, Texas State Library and Archives Commission: Larry Gene Holt, Brazos County.

Members, Texas Workforce Commission: Andres Alcantar, Travis County; Thomas W. Pauken, Dallas County.

### NOMINEE CONFIRMED

The following severed nominee, reported yesterday by the Committee on Nominations, was confirmed by the following vote: Yeas 22, Nays 7.

Yeas: Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, West, Whitmire, Williams.

Nays: Davis, Ellis, Gallegos, Shapleigh, Uresti, Watson, Zaffirini.

Absent-excused: Averitt, Van de Putte.

Member, Texas Commission on Environmental Quality: Bryan Webb Shaw, Williamson County.

### BILLS AND RESOLUTIONS SIGNED

The President Pro Tempore announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

**SB 187, SCR 55, SCR 61, SCR 66, HB 806, HB 2433.**

### SENATE RULES SUSPENDED (Posting Rules)

On motion of Senator West and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Intergovernmental Relations might meet and consider **SB 2209** tomorrow.

### RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

#### Memorial Resolution

**SR 836** by Hinojosa, In memory of Penny Payte McLeaish of McAllen.

#### Congratulatory Resolutions

**SR 839** by Nelson, Recognizing Gene Carey of Lewisville on the occasion of his retirement.

**SR 840** by Deuell, Recognizing James Tucker of Quinlan on the occasion of his graduation from the Texas School for the Deaf.

**SR 843** by Watson, Recognizing Joshua Allen Ingersoll of Austin for his service to this country.

**SR 844** by Ellis, Recognizing Abbie Jordana Kamin on the occasion of her graduation from Tulane University.

**SR 845** by Ellis, Recognizing Matthew Meredith Seliger on the occasion of his graduation from Amarillo High School.

**SR 846** by Ellis, Recognizing Akila Haley-Pinder of Houston on the occasion of her graduation from the Texas School for the Deaf.

**SR 847** by Hinojosa, Congratulating the Hidalgo Early College High School boys' soccer team for winning a Class 4A state championship.

**SR 848** by Van de Putte, Commending National Image, Incorporated, for its contributions to disabled veterans.

**SR 849** by Davis, Recognizing Chris and Diann Stadler for having the Big Greene Tree designated as a Fort Worth Heritage Tree.

#### **Official Designation Resolution**

**SR 838** by Nelson, Observing May, 2009, as Trauma Awareness Month and May 17 through 23, 2009, as Emergency Medical Services Week.

#### **ADJOURNMENT**

On motion of Senator Whitmire, the Senate at 2:31 p.m. adjourned until 11:00 a.m. tomorrow.

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### **APPENDIX**

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#### **COMMITTEE REPORTS**

The following committee reports were received by the Secretary of the Senate in the order listed:

May 5, 2009

CRIMINAL JUSTICE — **CSSB 2037**

HEALTH AND HUMAN SERVICES — **CSSB 8**

BUSINESS AND COMMERCE — **CSSB 2136**

CRIMINAL JUSTICE — **CSSB 1454**

FINANCE — **HB 1205, SB 2567**

ECONOMIC DEVELOPMENT — **HB 3519**

BUSINESS AND COMMERCE — **CSSB 853**

HEALTH AND HUMAN SERVICES — **HCR 88, HB 415, CSHB 448, HB 1240, CSHB 1363, HB 1454, HB 1574, CSSB 204, CSSB 1536, SB 1722, CSSB 1723, CSSB 1816**

NATURAL RESOURCES — **CSSB 1425**

INTERGOVERNMENTAL RELATIONS — **HB 1300, CSSB 1621**

#### **BILLS ENGROSSED**

May 4, 2009

**SB 10, SB 18, SB 108, SB 112, SB 474, SB 512, SB 689, SB 748, SB 749, SB 1257, SB 1343, SB 1388, SB 1443, SB 1835, SB 1982, SB 2228, SB 2256, SB 2258, SB 2317**

**BILL AND RESOLUTIONS ENROLLED**May 4, 2009**SB 187, SCR 55, SCR 61, SCR 66, SR 737, SR 815, SR 816, SR 818, SR 819, SR 820, SR 821, SR 823, SR 825, SR 826, SR 827, SR 828, SR 829, SR 830, SR 831, SR 832, SR 833, SR 834, SR 835****SENT TO GOVERNOR**May 5, 2009**SB 187, SCR 55, SCR 61, SCR 66****SIGNED BY GOVERNOR**May 5, 2009**SB 90, SB 346, SB 997**